

Notice of Allowability

Application No.

10/015,039

Examiner

Robert Madsen

Applicant(s)

STEVENSON ET AL.

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Amendment filed July 23, 2004.
2. ☒ The allowed claim(s) is/are 1,9-24 (renumbered as claims 1-17, respectively).
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

1. The Amendment filed July 23, 2004 has been entered. Claims 2-8 have been cancelled, and claims 9-24 have been added.

Examiner's Amendment

2. In Paragraph [0001] of the Specification :
3. After "continuation of" delete "co-pending", and after "January 7, 2000", insert ", now Patent No. 6,386,094 B1".

Allowable Subject Matter

4. Claims 1,9-24 are allowed.
5. The following is an examiner's statement of reasons for allowance:
6. The prior art does not teach a basket for holding a chip food product with a fry lid that is engageable with the basket, has a wire frame, and has any of the following features
 - (1) series of repeating long and short U-shaped wire prongs attached to and extending downwardly from the frame , the long prongs extending further downwardly from the frame than the short prongs
 - (2) series of repeating long and short posts attached to and extending downwardly from the frame , the long posts extending further downwardly from the frame than the short posts

(3) a series of repeating long and short posts attached to and extending downwardly from the frame that are formed by juxtaposed pairs of U-shaped wire prongs depending from the frames

(4) a series of repeating long and short posts attached to and extending downwardly from the frame that are formed by juxtaposed pairs of bent wires in which the bottom of each post is formed by wires bent to form two generally horizontal wires, each horizontal wire connected by curved wires to two generally vertical wires.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

8. Applicant's arguments with respect to Reidenbach have been fully considered and are persuasive. The rejection of claim 1 under 35 USC 102(b) has been withdrawn. Reidenbach (US 2186345) teaches long and short bent/u-shaped prongs, but does not teach the longer prongs extend further downward than the short prongs. Reidenbach also does not teach the newly recited features of juxtaposed pairs of U-shaped prongs or posts made of bent wires.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Sanchez (US 3605605) teaches a tortilla holder that is engageable with a fry tank conveyor with juxtaposed attached long u-shaped post and un-attached short-shaped posts (e.g. see Figure 11). Jones (US 3511172) teaches V-shaped posts extending upwardly from a taco shell holder that is engageable with a basket.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Madsen whose telephone number is (571) 272-1402. The examiner can normally be reached on 7:00AM-3:30PM M-F.
11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Examiner
Art Unit 1761



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